HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 14506 OF 2006

DATED: 17.7.2006

Between:

M/s.Somkan Marine Foods Ltd., rep. by its Factory Manager, C.Ramesh

… Petitioner

and

The Regional Provident Fund Commissioner-II, Sub-regional Office, Rajahmundry

…Respondent

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.14506 OF 2006

ORAL ORDER:

Heard the learned counsel for the petitioner Mr.C. Kodanda Ram and Sri R.N.Reddy the learned Standing Counsel for the respondents.

What is assailed by the petitioner-Company is the decision of the respondent dated.30-06-2006 to conclude the enquiry under Sec.7 of the Employees Provident Funds and Miscellaneous Provisions Act,1952 (for short "the Act") and proceeding to assess the amounts due and payable by the petitioner on the basis of the report of the Enforcement Officer dated.29-06-2006; the list of the employees on the rolls of the petitioner given by the Enforcement Officer and details of the wages as per the said report and proceeding to draw up the order of assessment on the above basis.

On 30-06-2006, the petitioner in response to a notice dated.20-02-2006 of the respondent, requested the respondent to furnish a report of the Enforcement Officer who visited the petitioner-Company's premises and other relevant information that was placed before the respondent in order to enable the petitioner-Company to defend itself and to furnish its response to the show-cause notice.

It is common ground between the parties that the report of the Enforcement Officer is the substratum for the assessment process being pursued by the respondent under the provisions of the Act. In the circumstances the respondent is obligated to furnish to the petitioner-Company a copy of the Enforcement Officer's report on the basis of which the assessment is proposed. Denial of such report to the petitioner-Company would prejudice and handicap the petitioner-Company in its defence.

In the aforesaid circumstances the respondent is directed not to proceed with the assessment pursuant to the impugned proceedings dated.30-06-2006, and to treat the conclusion recorded in the proceedings dated.30-06-2006 as a provisional conclusion. It is further directed to furnish to the petitioner a copy of the Enforcement Officer's report drawn up pursuant to the visit to the petitioner-Company, as also the complaint on the basis of which the proceedings have been initiated and any other relevant material on the basis of which the respondent desires to make the assessment. While communicating the aforementioned material to the petitioner the respondent shall call upon the petitioner to submit its explanation indicating a reasonable time for the explanation. After the expiry of such time, the respondent may proceed to make the assessment in accordance with law and after considering the response of the petitioner if any submitted pursuant to such show-cause notice.

The writ petition is accordingly disposed of at the stage of

admission. No order as to costs.

GODA RAGHURAM,J

17TH JULY,2006
*TSNR